

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**  
**NASHVILLE, TENNESSEE**

**May 23, 2003**

**IN RE:**

**PETITION OF US LEC TENNESSEE, INC. FOR  
DECLARATORY ORDER**

**DOCKET NO.  
02-00890**

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**ORDER GRANTING REQUEST FOR MODIFICATION  
OF PROCEDURAL SCHEDULE**

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This matter is before the Pre-Hearing Officer on the joint request asserted by Petitioner US LEC Tennessee, Inc. ("US LEC") and Respondent Airstream Wireless Services, Inc. ("Airstream") on May 13, 2003 to modify the Procedural Schedule. The Procedural Schedule was set forth in the *Order Denying Joint Motion to Stay Proceedings and Modifying Procedural Schedule and Setting a Hearing Date* ("Order Denying Joint Motion") issued on May 8, 2003.

In their May 13, 2003 filing, both parties state that due to preexisting commitments, compliance with the Procedural Schedule is not possible. The parties also agree that this case involves potentially complex factual issues that may require two rounds of discovery, thereby lengthening the Procedural Schedule. The parties have proposed an alternative schedule that includes two rounds of discovery.

Since the *Order Denying Joint Motion* was issued on May 8, 2003, Audiotext International, LTD filed a complaint with the Federal Communications Commission ("FCC") based upon the allegations alleged in *Audiotext Int'l, LTD v. AT&T Corp.*, CA 00-5010 (E.D. Pa. Jan. 17, 2002). This new FCC action involves issues similar to those

alleged in the instant case. The parties herein have indicated that they were informed that the FCC action should be concluded within six months.

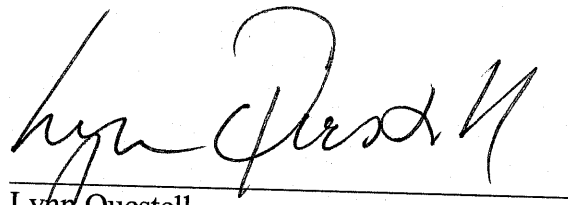
Both parties request an extension of time, asserting that this case may involve complex issues requiring more intense discovery. In addition, the proposed modification of the Procedural Schedule may allow sufficient time for the resolution of the FCC action, which may assist this agency in its consideration of the issues raised in the instant case. Accordingly, the Procedural Scheduled shall be modified as follows:

#### **Procedural Schedule**

- The parties shall file a proposed Issues List no later than **Thursday, June 12, 2003**;
- Discovery Requests shall be filed with the Authority and served on all parties no later than **Thursday, July 17, 2003**. Discovery Requests shall conform to Tenn. Comp. R. & Reg. 1220-1-2-.11(5);
- Responses to Discovery Requests shall be filed with the Authority and served on all parties no later than **Monday, August 18, 2003**;
- Supplemental Discovery Requests shall be filed with the Authority and served on all parties no later than **Monday, September 8, 2003**;
- Responses to Supplemental Discovery Requests shall be filed with the Authority and served on all parties no later than **Wednesday, October 1, 2003**;
- Pre-filed Direct Testimony shall be filed with the Authority and served on all parties no later than **Friday, October 31, 2003**;
- Pre-filed Rebuttal Testimony shall be filed with the Authority and served on all parties no later than **Friday, November 14, 2003**;
- The Hearing date will be announced later.

**IT IS THEREFORE ORDERED THAT:**

1. The *Joint Motion to Stay Proceedings* is denied.
2. The Procedural Schedule is modified as stated herein.



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Lynn Questell  
Pre-Hearing Officer